

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLICATION NO. 09/863,321
ATTORNEY DOCKET NO. Q64387

REMARKS

Claims 1-10 have been examined on their merits.

Applicant herein editorially amends claims 1-10 to clarify language and to conform the claims to U.S. practice. The amendments to claims 1-10 were not made for reasons of patentability, and thus do not implicate an estoppel in the application of the doctrine of equivalents.

The Patent Office objects to claim 4 as being dependent upon a rejected base claim. Applicant thanks the Patent Office for indicating that claim 4 would be allowed if rewritten in independent form. However, instead of rewriting claim 4 in independent form, Applicant respectfully traverses the prior art rejections for the reasons set forth below.

Claims 1-10 are all the claims presently pending in the application.

1. Claims 1-3 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Wakim *et al.* (U.S. Patent No. 6,477,178). Applicant traverses the § 102(e) rejection of claims 1-3 for at least the reasons discussed below.

Wakim *et al.* fails to teach or suggest taking an STM-N type frame with its section overhead and mapping it as a payload into a concatenation of new multiplex units (*e.g.*, VC-3 or VC-4 type multiplex units), as recited in claim 1. Concatenation is well-understood term in SDH/SONET terminology, which says that several VCs are logically (virtual concatenation) or physically (contiguous concatenation) linked to provide a larger transport capacity, see chapter 8.1.7 of G.707/1996. However, one of skill in the art is aware that concatenation differs from

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multiplexing. For example, multiplexing three TUG-3 into a VC-4 and mapping it into a STM-N does not imply that the three TUG-3 are concatenated - they just share some part of the network during their transmission through the network. Conversely, concatenation is achieved through certain entries in the path overhead and/or associated pointers (there are differences between virtual and contiguous concatenation).

The Patent Office appears to be arguing that the frame recited in claim 1 is equivalent to the SPE disclosed in Wakim *et al.* Wakim's SPE, and further argues that Wakim *et al.* disclose transmitting the SPE without terminating the path overhead. The SPE, however, is not a frame. The SPE lacks any framing and cannot be transmitted without an STS-N/STM-N frame. The fact that path overhead is not terminated is implicit, since path overhead is always transported from end to end, but what is in fact terminated is the section overhead of a frame (STS-N or STM-N).

Wakim *et al.* teach that the SPE is either mapped into a STS-N frame or is multiplexed via TUG-3 into VC-4 and then mapped into STM-N. Both options are already known from G.707, Fig. 6-1. Moreover, it is improper for the Patent Office to first allege that the term "frame" reads on the SPE of Wakim *et al.* and then on then on the STM-4 of Figure 2 of Wakim *et al.* Wakim *et al.* does not teach or suggest packing a STS-N or an STM-N into an STM-N and Wakim *et al.* do not teach or suggest packing frames into a concatenation of newly formed multiplex units (VC-4).

Based on at least the foregoing reasons, Applicant submits that claim 1 is allowable over Wakim *et al.*, and further submits that claims 2 and 3 are allowable as well, at least by virtue of

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their dependency from claim 1. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 102(e) rejection of claims 1-3.

2. Claims 5-8 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wakim *et al.* Applicant traverses the § 103(a) rejection of claims 5-8 for at least the reasons discussed below.

Claims 5-8 depend from claim 1, and therefore incorporate all the recitations of claim 1 by virtue of their dependency. Applicant submits that claim 1 is allowable over Wakim *et al.* based on the above discussion regarding claim 1, which is incorporated here by reference. Applicant submits that claims 5-8 are allowable as well of Wakim *et al.*, at least by virtue of their dependency from claim 1. Applicant requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 5-8.

3. Claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin *et al.* (EP 0874488 A2) in view of Wakim *et al.* Applicant traverses the § 103(a) rejection of claims 9 and 10 for at least the reasons discussed below.

In the Rule 111 Amendment filed on April 26, 2005, Applicant successfully traversed the § 102(e) rejection of claims 9 and 10 over Martin *et al.*, as evidenced by the current § 103(a) rejection of claims 9 and 10 over the combination of Martin *et al.* and Wakim *et al.*.

Claim 9 has recitations similar to those of claim 1, and Applicant submits that claim 9 is allowable for at least reasons analogous to those discussed above with respect to claim 1. In

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U.S. APPLICATION NO. 09/863,321
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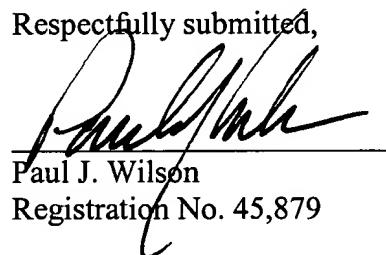
sum, the combination of Martin *et al.* and Wakim *et al.* fails to teach or suggest at least the arrangement of overhead sections, path overheads and multiplex units as recited in claim 9.

Based on at least the foregoing reasons, Applicant submits that independent claim 9 is allowable over the combination of Martin *et al.* and Wakim *et al.*, and further submits that claim 10 is allowable as well, at least by virtue of its dependency from claim 9. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 9 and 10.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: August 25, 2005